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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

GERALD FINKEN, Plaintiff, v. USA CYCLING, INC.; BREAKAWAY PROMOTIONS, LLC, OGDEN/WEBER CONVENTION & VISITORS BUREAU, and DOES 1-10, Defendants.	AMENDED COMPLAINT Civil No. 1:17-cv-00079-CW-BCW District Judge: Clark Waddoups
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Plaintiff Gerald Finken (hereinafter referred to as “Plaintiff”) complains of defendants USA Cycling, Inc. (hereinafter referred to as “USA Cycling”), Breakaway Promotions, LLC (hereinafter referred to as “Breakaway Promotions”), Ogden/Weber Convention & Visitors Bureau (hereinafter referred to as “Visitors Bureau”), and Does 1-10, and alleges as follows:

PARTIES

1. At all times relevant hereto, Plaintiff was a resident of Fargo, North Dakota.

2. Defendant USA Cycling, Inc., is a non-profit corporation, with its principle place of business located in Colorado Springs, CO. Its registered agent is Shane Garman, 210 USA Cycling Point, Colorado Springs, CO 80919-2215.

3. Defendant Breakaway Promotions, LLC, is limited liability company organized and existing under the laws of the State of Oregon. Its registered agent is Chad Sperry, 4005 NW Helmholtz Way, Redmond, OR 97756.

4. Defendant Ogden/Weber Convention & Visitors Bureau is a non-profit corporation organized and existing under the laws of the State of Utah, with its principal place of business in Weber County, Utah. Its registered agent is Sara V. Toliver, 2438 Washington Blvd., Ogden, UT 84401.

5. Defendants Does 1-10, are individuals or companies that may be later identified to be liable for the allegations contained herein.

6. All actions or omissions complained herein occurred in Weber County, State of Utah.

7. Pursuant to 28 U.S.C. § 1332, the amount in controversy in this matter exceeds that required to file a civil action in this district court and the action is between citizens of different States.

FACTUAL ALLEGATIONS

8. Plaintiff is an accomplished bicycle race competitor.

9. Plaintiff registered to compete in the 2014 USA Cycling Masters Road Championships (the “2014 Championships”) including, without limitation the road race event.

10. The 2014 Championships were to be held in Utah on September 3-7, 2014.

11. USA Cycling is the national governing body for the sport of cycling in the United States of America and was responsible for conducting the 2014 Championships.

12. Pursuant to a contract with USA Cycling, Breakaway Promotions was the race coordinator for the 2014 Championships. Breakaway Promotions' duties in relation to the 2014 Championships included, without limitation, to implement course design and layout for each race course and to complete organization and course safety evaluations.

13. Additionally, Breakaway Promotions prepared a map of the course for the road race event that was distributed to race participants through USA Cycling's website.

14. Pursuant to a contract with USA Cycling, the Visitors Bureau was the Local Organizing Committee for the 2014 Championships. The Visitors Bureau's duties in relation to the 2014 Championships included, without limitation, providing complete and groomed courses for the events that included roads free from defects, deformities, potholes, debris, etc. The contract also required that the Visitors Bureau ensure that the courses were ready to race, only needing signage and course markings.

15. Part of the race course for the road race event at the 2014 Championships covered State Road 226 in Weber County, Utah. State Road 226 ("SR 226") is often referred to as the "Old Snowbasin Road."

16. At the time Plaintiff registered for the 2014 Championships road race event, or before that time, USA Cycling provided him with a map of the race course for the road race event through its website. The map depicted the course as traveling over SR 226.

17. This map was prepared by Breakaway Promotions.

18. Neither this map of the road race course, nor USA Cycling's website, contained any indication that SR 226 was closed and was completely blockaded by a concrete barrier near a sharp curve in the road.

19. On August 25, 2014, in preparation for the upcoming race, Plaintiff attempted to pre-ride the course in order to practice and get to know the course before the actual race.

20. Plaintiff was riding cautiously on SR 226 as he had not ridden this course before and was unfamiliar with the landscape.

21. As Plaintiff came around a turn near the Art Nord Trailhead on SR 226, he looked up and saw for the first time that the road was closed and was completely blocked by a cement barrier.

22. There were no signs on the road approaching the barrier indicating the presence of the barrier or the closure of the road.

23. Due to his speed and the unexpected nature of the closure, Plaintiff did not have adequate time to avoid the barrier.

24. Plaintiff and his bicycle hit the barrier, causing him to crash.

25. Plaintiff was severely injured in that crash.

26. Plaintiff underwent both emergency and follow up treatment for his injuries due to this accident.

27. Plaintiff's bicycle was damaged as a result of the crash.

FIRST CLAIM FOR RELIEF-NEGLIGENCE
(All Defendants)

28. Plaintiff incorporates by reference all other factual allegations contained herein.

29. USA Cycling, Breakaway Promotions, and the Visitors Bureau owed Plaintiff various duties of care.

30. By Defendants' actions or inactions, they breached their duties of care to Plaintiff.

31. Defendants were negligent in, but not limited to, the following particulars:

a. Failing to notify or warn participants in the road race portion of the 2014 Championships (many of whom may not have been familiar to the area), including Plaintiff of the SSR 226's closure prior to the race and prior to the days leading up to the race during which riders, like Plaintiff, would be pre-riding the course;

b. Failing to make sure the course was clear, safe, and not closed prior to the race; and

c. Failing to make sure that the course was adequately marked with proper signage prior to the race, particularly in regard to the closure.

32. It was foreseeable that participants would pre-ride the road race course prior to the 2014 Championships.

33. As a proximate and direct result of the negligence of Defendants, Plaintiff Finken has suffered significant personal injuries and has suffered other harms and damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Finken demands relief as follows:

- A. For a judgment against Defendants for damages, including all special and general damages, in an amount to be determined at trial;
- B. For pre-judgment and post-judgment interest;
- C. For attorney's fees and costs as allowed by law; and

D. For such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff demands trial by jury and previously tendered the statutory fee.

DATED: March 29, 2018.

JONES WALDO HOLBROOK & McDONOUGH, P.C.

/s/ P. Matthew Muir

P. Matthew Muir
Lesley A. Manley
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I certify that on March 29, 2018, a copy of the foregoing Amended Complaint was served upon the following via the electronic case filing system:

Robert L. Janicki
Lance H. Locke
Strong & Hanni
Attorneys for Defendant USA Cycling, Inc.

/s/ P. Matthew Muir
